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AZ Administrative Code

AZ Office of Administrative Hearings

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Public Hearings, Workshops & Comment Periods

The actions and dates in this newsletter are subject to change. Please note that neither this newsletter nor the ADEQ website is a substitute for the Arizona Administrative Register, which is the official notice for all rulemaking actions and substantive policy statements.

Persons wishing to follow ADEQ rulemaking activity and substantive policy statements should review the Arizona Administrative Register.

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OFFICE OF ADMINISTRATIVE COUNSEL

Licensing Time Frames II Update **(18 A.A.C. 1, Art. 5)**

In this rulemaking, ADEQ repealed and amended licensing time-frame (LTF) rule text and repealed, amended and added licenses to LTF tables as required to conform to licensing program requirements that have evolved in response to statutory and rulemaking changes. The rulemaking also clarifies ADEQ's obligations to act under Article 7.1 of the Administrative Procedure Act (the LTF statutes), based on ADEQ's actual experience under the rule. GRRC approved the Final Rulemaking on May 1, 2007.

Docket Opening: [12 A.A.R. 2577](#) ; July 21, 2006 and [12 A.A.R. 2972](#) ; August 18, 2006

Notice of Proposed Rulemaking: [12 A.A.R. 2290, 2926](#) ; August 18, 2006

Public Hearing: Was held on Sept. 28, 2006 in Phoenix
Contact: [Deborah K. Blacik](#): (602) 771-2223

Administrative Appeals **(18 A.A.C. 1, Articles 1 and 2)**

The proposed rules are part of ADEQ administrative procedures governing notices of appeal or requests for hearing before the Office of Administrative Hearings (OAH) or the Water Quality Appeals Board. ADEQ proposes changes clarifying that the Department takes no action on notices of appeal or requests for hearing that are not appealable agency actions, contested cases, or otherwise not according to applicable law. ADEQ also proposes rules for pleadings in response to a recommended decision. Specifically, that pleadings in response to a recommended decision may be filed with the Director and served upon all other parties to the action; that the opposing party may respond to the pleadings to the Director; but that no reply is permitted. The rationale for this rulemaking is to improve the clarity and efficiency of rules governing formal administrative adjudications filed with the ADEQ.

Docket Opening: [12 A.A.R. 1345](#); April 21, 2006

Proposed Rulemaking: [13 A.A.R. 1362](#) ; April 20, 2007

Contact: [Henry Darwin](#): (602) 771-2328

AIR QUALITY DIVISION

Mercury Rule (18 A.A.C. 2, Art. 7)

The Arizona Department of Environmental Quality has adopted final rules establishing standards of performance for the control of mercury emissions from new and existing stationary coal-fired electric utility steam generating units. These rules incorporate the national cap and trade program for mercury established by the federal rule "Clean Air Mercury Rule," at 40 CFR 60, Subpart HHHH. They also establish state standards that require a reduction in mercury emissions from each individual power plant in Arizona of approximately 90 percent.

The Governor's Regulatory Review Council approved the rules at a November 14, 2006, special meeting conditioned on the Department making specified changes to the rule and submitting the revised Notice of Final Rulemaking. The Department submitted the revised NFRM on November 28, 2006.

Docket Opening: [12 A.A.R. 1712](#) May 19, 2006

Proposed Rulemaking: [12 A.A.R. 2809](#) ; August 11, 2006

Notice of Final Rulemaking: [12 A.A.R. 4701](#) ; December 22, 2006

Public Hearing: September 12, 2006 in Phoenix

GRRC Hearing: November 14, 2006

Contact: [Steve Burr](#) (602) 771-4251

NSPS/NESHAP/Acid Rain Update (18 A.A.C. 2, Art. 2, 3, 9, 11, and Appendix 2)

The Arizona Department of Environmental Quality is in the process of proposing new and updated incorporations by reference of the following federal regulations in state rules: Acid Rain, New Source Performance Standards (NSPS), and National Emissions Standards for Hazardous Air Pollutants (NESHAP).

Docket Opening: [13 A.A.R. 312](#); February 9, 2007

Contact: [Carrie Bojda](#) (602) 771-4210

New Source Performance Standard (R18-2-903) for APS Cholla Generating Station (18 A.A.C. 2, Art. 9)

The Arizona Department of Environmental Quality is considering amending R18-2-903, Standards of Performance for Fossil-fueled Fired Steam Generators, to reflect proposed changes to compliance demonstration by Arizona Public Service at the Cholla generating station resulting from the addition of air pollution control equipment to the facility.

Docket Opening: [13 A.A.R. 312](#); February 9, 2007

Contact: [Carrie Bojda](#) (602) 771-4210

Office of Administrative Hearings (18 A.A.C. 2, Art. 3 and 5)

The Arizona Department of Environmental Quality has adopted amendments to two permit rules that refer to the "hearing board," so that they refer to the correct body to hear permit decision appeals, the "Office of Administrative Hearings."

Docket Opening: [12 A.A.R. 1711](#); May 19, 2006

Proposed Rulemaking: [12 A.A.R. 2290](#) ; June 30, 2006

Notice of Final Rulemaking: [12 A.A.R. 4698](#) ; December 22, 2006

Public Hearing: Was held on August 11, 2006 in Phoenix

GRRC Hearing: Was held on December 5, 2006

Contact: [Kevin Force](#) (602) 771-4480

"Dispersion Technique" Definition (18 A.A.C. 2, Art. 4)

The Arizona Department of Environmental Quality has adopted amendments to R18-2-401 so that the definition of "dispersion technique" at R18-2-401(4) is consistent with the definition of "dispersion technique" at R18-2-301(6). The Notice of Final Rulemaking was approved at the March 6, 2007 GRRC hearing.

Docket Opening: [12 A.A.R. 1711](#); May 19, 2006

Proposed Rulemaking: [12 A.A.R. 2640](#) ; July 28, 2006

Public Hearing: Was held on September 6, 2006 in Phoenix

GRRC Hearing: March 6, 2007

Contact: [Kevin Force](#) (602) 771-4480

Article 7 Technical Amendments (18 A.A.C. 2, Art. 7)

The Arizona Department of Environmental Quality has proposed amendments to a number of rules in Article 7 to correct several technical and typographical errors. This rulemaking includes the repeal of R18-2-718, Standards of Performance for Existing Kraft Pulp Mills, since there are no longer any operating sources of this sort in Arizona; the deletion of the reference to the now-defunct smelter at San Manuel; and the deletion of language in R18-2-729, Standards of Performance for Cotton Gins, which refers to language in R18-2-702, General Provisions, that is no longer applicable.

Docket Opening: [12 A.A.R. 2306](#); June 30, 2006

Proposed Rulemaking: [12 A.A.R. 4612](#); November 13, 2006

Public Hearing: Was held on January 9, 2007 in Phoenix

Contact: [Kevin Force](#) (602) 771-4480

TANK PROGRAMS DIVISION

NFA/MNA Rule (18 A.A.C. 12, Arts. 1, 2, and 9)

ADEQ is considering rules: 1) for issuance of no further action (NFA) letters for leaking underground storage tank (LUST) sites once the source has been removed and a corrective action plan or state assurance fund work plan has been approved that includes monitored natural attenuation (MNA); 2) allowing ADEQ to close certain groundwater LUST cases where there is an exceedance of the aquifer water quality standards, and 3) to implement the MNA account to be used by ADEQ to continue to monitor LUST sites that have been issued an NFA letter and to perform additional corrective actions if necessary.

Docket Opening: [12 A.A.R. 3570](#); September 29, 2006

Contact: [Philip McNeely](#) (602) 771-7645

WASTE PROGRAMS DIVISION

Hazardous Waste Rule Amendments (2006) (18 A.A.C. 8, Art. 2)

ADEQ is considering amendments to the state's hazardous waste rules that incorporate the text of federal regulations for the purpose of obtaining re-authorization of the state's hazardous waste management program by the United States Environmental Protection Agency. These latest amendments are expected to cover changes in the federal regulations beginning July 1, 2005 through at least June 30, 2006.

Docket Opening: [13 A.A.R. 1054](#); March 23, 2007

Contact: [Mark Lewandowski](#) (602) 771-2230

WQARF Site Scoring Rule Amendments (18 A.A.C. 16, Art. 2)

ADEQ is considering amendments to the existing rule regarding the scoring of sites for placement on the Water Quality Assurance Revolving Fund (WQARF) Registry. The current site scoring rule incorporates by reference an eligibility and evaluation site scoring model that was established in October 1996. ADEQ plans to update the current rule (R18-16-202) with a new eligibility and evaluation site scoring model.

Docket Opening: [13 A.A.R. 1054](#); March 23, 2007

Contact: [Peggy J. Guichard-Watters](#) (602) 771-4117

Special Waste/Petroleum Contaminated Soil (18 A.A.C. 13, Art. 13 and Art. 16)

ADEQ is considering amendments to the rules governing the management, treatment, storage, and disposal of special waste. Special waste is defined by A.R.S. § 49-852 as waste that contains petroleum contaminated soils and waste from shredding motor vehicles, and is currently regulated by two

rules. The first, Title 18, Chapter 13, Article 13, regulates registration, manifesting, and fees for both petroleum contaminated soils (PCS), and shredder residue, and provides best management practices (BMPs) for facilities shredding motor vehicles. The second, Title 18, Chapter 13, Article 16, provides BMPs for handling PCS only. Although both rules address the handling of special waste, they were written at different times using different regulatory philosophies, often resulting in inconsistencies between the two rules. In some cases the rules did not envision numerous special waste handling scenarios which have since become issues that must be addressed in rule in order to provide clear direction for the safe and proper handling of special waste.

ADEQ proposes to combine Title 18, Chapter 13, Article 13 (Special Waste) with Chapter 13, Article 16 (Best Management Practices for Petroleum Contaminated Soil) into one rule as Title 18, Chapter 13, Article 13 (Special Waste). These revisions will rectify contradictions between the two original rules and existing rules and statute, and create a uniform and consistent regulatory structure for all special waste. Revisions will also provide clear direction on waste handling procedures previously not addressed.

Informal stakeholder meetings were held to discuss ADEQ's preliminary draft of the rules on November 4, 2005, December 9, 2005, January 19, 2006, and January 23, 2006. Subsequent meetings will be scheduled as needed.

Docket Opening: [12 A.A.R. 1101](#); Apr. 7, 2006

Contact: [Mindi Cross](#) (602) 771-4418

Integrated Solid Waste Regulatory Framework (18 A.A.C. 13)

The purpose of this rulemaking is to establish a systematic and comprehensive framework for regulating solid waste facilities and solid waste streams in Arizona. This rulemaking will integrate and implement statutory provisions related to best management practices, self-certification requirements, plan approval procedures, financial assurance requirements, design and operation rules for solid waste facilities, and other topics. The types of facilities that may be affected by this rulemaking include landfills, treatment facilities, transfer facilities, on-site storage facilities, composting facilities, and recycling facilities.

Docket Opening: [13 A.A.R. 583](#); Feb. 23, 2007

Contact: [Martha Seaman](#) (602) 771-2221

Soil Remediation Standards (18 A.A.C.7, Art. 2)

ADEQ has updated and revised Chapter 7, Article 2, to be consistent with current scientific data and statute. The new language: 1) revises and updates the predetermined Soil Remediation Levels (SRLs); 2) replaces the Voluntary Environmental Mitigation Use Restriction (VEMUR) requirement with Declaration of Environmental Use Restriction (DEUR) requirements consistent with

WASTE PROGRAMS DIVISION (con't)

A.R.S. § 49-152; 3) expands the determination of compliance with SRLs to include the use of soil gas analyses; 4) revises language regarding the letter of completion to add alternative closure documents consistent with current statute; and 5) requires the use of 1x 10⁻⁶ excess lifetime cancer risk level for remediation at sites if the current or currently intended future use is a school or child care facility where children are reasonably expected to be in frequent and repeated contact with the soil. A Notice of Final Rulemaking was submitted to GRRC on January 19, 2007 and the rule was considered and approved by GRRC at their March 6th meeting. The new rule is effective on May 5, 2007. The link to the Notice of Final Rulemaking that was approved by GRRC is:

www.azdeq.gov/function/laws/download/soilnfrm.pdf.

ADEQ provided training on the rule revisions:

Thursday, April 12th, 3:00 - 5:00 p.m.

ADEQ Central Office, Room 145

1110 W. Washington St., Phoenix

and

Friday, April 13th, 1:30 – 2:30 pm

ADEQ Southern Regional Office, Room 446

400 W. Congress, Tucson

Docket Opening: [12 A.A.R. 3196](#); September 1, 2006

Notice of Proposed Rulemaking: [12 A.A.R. 3124](#); September 1, 2006

Hearings: October 11, 2006; October 12, 2006

Close of Comment: October 13, 2006

GRRC Meeting: March 6, 2007

Notice of Final Rulemaking: [13 A.A.R. 971](#); March 23, 2007

Contact: [Philip McNeely](#) (602) 771-7645

[Amanda Stone](#) (602) 771-4567

Engineering Controls/Financial Assurance Rules (18 A.A.C. 7, Art. 7)

A.R.S. § 49-152.01 establishes requirements for a property owner who elects to use an engineering control to meet requirements for cleaning up contaminated property. An engineering control is defined as a remediation method such as a barrier or cap that is used to prevent or minimize exposure to contaminants and that includes technologies that reduce the mobility or migration of contaminants. This new rule will provide details as to how to implement the provisions of A.R.S. § 49-152.01, which specify requirements for an engineering control plan and for financial assurance mechanisms that are intended to cover the costs of maintaining and restoring an engineering control. A draft rule is currently being evaluated internally.

Docket Opening: [12 A.A.R. 1035](#); Mar. 31, 2006

Contact: [Ren Willis-Frances](#) (602) 771-4109

Declaration of Environmental Use Restriction - Permanent Fee Rule (18 A.A.C. 7, Art. 6)

This is a permanent rulemaking to replace an interim fee rule, pursuant to 2000 Ariz. Session Laws Ch. 225, § 13. It would establish a fee, which a property owner is required pursuant to A.R.S. §§ 49-152(K) and 49-158(G) to pay to ADEQ when a declaration of environmental use restriction (DEUR) is submitted for approval, prior to being recorded. A DEUR is a restrictive covenant that must be recorded when an owner elects to use either an institutional control (i.e., a legal or administrative limitation on activities or uses) or an engineering control (e.g., a slab, cap, fence, liner, berm, leachate collection system, or pump and treat technologies) to prevent or minimize exposure to contaminants on the property, or when an owner elects to leave contamination on the property that exceeds the applicable residential soil remediation standard for the property. ADEQ will evaluate its experience with fees paid under the interim DEUR fee rule, to ascertain any ways in which the fee should be revised for the permanent rule..

Docket Opening: [12 A.A.R. 1566](#); May 12, 2006

Contact: [Peggy J. Guichard-Watters](#) (602) 771-4117

Voluntary Remediation Fees (18 A.A.C. 7, Art. 5)

The rule sets out fees to be charged by ADEQ under the Voluntary Remediation Program established in A.R.S. Title 49, Chapter 1, Article 5. This is the permanent rulemaking authorized in Laws 2000, Chapter 225, section 13. The interim fee rule language in Article 5 will be replaced with the permanent fee rule.

Docket Opening: [12 A.A.R. 2159](#); June 16, 2006

Contact: [Peggy J. Guichard-Watters](#) (602) 771-4117

WATER QUALITY DIVISION

Safe Drinking Water Incorporation by Reference (18 A.A.C. 4)

The primary purpose of this rulemaking is to incorporate EPA's safe drinking water regulations by reference. The rulemaking will update Arizona's safe drinking water rules by incorporating the rule amendments that EPA has adopted since the department last updated its safe drinking water rules, and facilitate future updates to the department's safe drinking water rules.

Docket Opening: [12 A.A.R. 1345](#); April 21, 2006

Contact: [Sean McCabe](#) (602) 771-4600

WATER QUALITY DIVISION (con't)**Surface Water Quality Standards
(18 A.A.C. 11, Article 1)**

ADEQ proposes to update the Surface Water Quality Standards rules by amending definitions; clarifying the applicability of the water quality standards rules; modifying designated uses; proposing new antidegradation implementation procedures; adopting new narrative water quality standards including a new narrative biocriterion; propose new numeric water quality criteria to protect human health; adopting new or revised water quality criteria for suspended sediment in surface waters; classifying new effluent dependent waters (EDWs); adopting numeric water quality criteria for total ammonia to maintain and protect water quality for aquatic life in EDWs; amending Appendix A by updating the water quality criteria to protect human health and aquatic life; and amending Appendix B by modifying the designated uses listed for surface waters.

Contact: [Shirley Conard](#) (602) 771-4632

**Aquifer Water Quality Standards
(18 A.A.C. 11, Article 4)**

This Article establishes aquifer water quality standards. These standards apply to facilities licensed under the Aquifer Protection Permit (APP) program, which discharge pollutants to groundwater and guide remedial and corrective actions by various Department programs, such as Water Quality Assurance Revolving Fund (WQARF), Underground Storage Tank (UST), and Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

The rulemaking will adjust aquifer water quality standards for uranium, arsenic, and disinfection byproducts to be consistent with the new federal primary drinking water standards adopted by the Environmental Protection Agency (EPA) as required by A.R.S. § 49-223(A).

Docket Opening: [12 A.A.R. 1100](#); April 7, 2006

Contact: [Sean McCabe](#) (602) 771-4600

Impaired Water Identification (18 A.A.C. 11, Art. 6)

ADEQ proposes to update the Impaired Water Identification rules to update methods for impaired water identification and 303(d) listings to be consistent with 2006 federal assessment and 303(d) listing guidance. Rule Summary coming mid-May

Contact: [Shirley Conard](#) (602) 771-4632

**Public Water Systems Engineering Review Fees
(18 A.A.C. 14, Article 2)**

Pursuant to 18 A.A.C. 5, Article 5, Minimum Design Criteria, ADEQ prescribes minimum design standards for public water systems, and reviews plans and specifications for the systems. The purpose of this rulemaking is to establish, by administrative rule, fees for performing technical reviews of plans for public water systems. ADEQ has a statutory responsibility to review plans for these facilities and to assess fees for its reviews. A.R.S. § 49-353(A). Rule Summary coming in July timeframe.

Docket Opening: [12 A.A.R. 1179](#); April 14, 2006

Contact: [Sean McCabe](#) (602) 771-4600